

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

TRUSTEES OF THE SOUTHWEST OHIO	:	Case No. 1:19-cv-379
REGIONAL COUNCIL OF CARPENTERS	:	
PENSION PLAN, <i>et al.</i> ,	:	Judge Susan J. Dlott
	:	
Plaintiffs,	:	DEFAULT JUDGMENT ORDER
	:	
v.	:	
	:	
FAITH MILLWRIGHT & RIGGING, INC.,	:	
	:	
Defendant.	:	

This matter is before the Court on the Plaintiffs' Motion for Default Judgment (Doc. 8).
For the reasons stated below, Plaintiffs' Motion will be **GRANTED**.

Plaintiffs are fiduciaries of separate trust funds created pursuant to the Labor-
Management Relations Act § 302(c)(5), 29 U.S.C. § 186(c)(5). Defendant Faith Millwright &
Rigging, Inc. is an Ohio corporation which was at all relevant times a signatory employer and
party to the collective bargaining agreement ("CBA") at issue in this case. (Doc. 1 at PageID 6;
Doc. 1-1 at PageID 15; Doc. 1-2.) The CBA requires Defendant to contribute to Plaintiffs' funds
and deduct and remit dues. As a signatory of the CBA, Defendant is bound through the Trust
Agreements to the terms of the Funds' Collection Policy. (Doc. 1 at PageID 6; Doc. 1-5.)
Pursuant to the Collection Policy, Defendant is required to submit accurate monthly reports
indicating the number of hours worked by covered employees and remit full and correct
contribution payments. (Doc. 1 at PageID 6.)

The Collection Policy provides that in the event a signatory employer is delinquent in
contributing to the funds and the matter is referred for collection, the employer is obligated to
pay liquidated damages of 20% of the unpaid contributions, simple interest at a rate of one

percent per month on the unpaid contributions beginning on the due date, plus attorney's fees and court costs. (Doc. 1-5 at Page ID 104.) Defendant is required to pay the cost of an audit, if there is a contribution deficiency greater than five percent of the contributions owed for the audited period. (Doc. 1 at PageID 9.)

In the Complaint, Plaintiffs allege that Defendant has breached its obligation to report the number of hours of covered work performed by its employees for the following months: September 2018, November 2018 through February 2019, and April 2019 through June 2019. (Doc. 1 at PageID 7.) Because Defendant failed to submit reports for those months, the amount of unremitted contributions, liquidated damages, and interest owed cannot be determined without an audit.

Plaintiffs filed their Complaint on May 21, 2019. (Doc. 1.) On June 3, 2019, Defendant completed a Waiver of Service of Summons pursuant to Fed. R. Civ. P. 4(d). (Doc. 5.) Although its responsive pleading was due July 22, 2019, Defendant has failed to answer Plaintiffs' Complaint or file another responsive pleading. Pursuant to Plaintiffs' request, the Clerk of Courts filed an Entry of Default against the Defendant. (Doc. 7.)

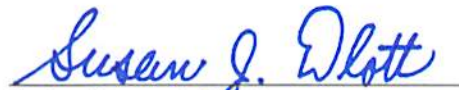
Accordingly, for good cause shown, the Court hereby enters an **Order of Default Judgment** against Defendant. **IT IS FURTHER ORDERED** as follows:

1. Defendant shall, not later than 14 days from the date of this Order, submit to an audit by making available to Plaintiffs, or their designated agent, in the manner and at the time and place designated by Plaintiffs, all of Defendant's books and records for the period January 2018 to the present. Defendant shall provide Plaintiffs with the records, information, and responses as necessary for Plaintiffs to determine the amounts owed in unpaid contributions, liquidated damages, and interest.

2. Defendant shall be liable for the amount of contributions found due and owing from the audit, plus liquidated damages, interest, attorneys' fees, and—if there is a contribution deficiency greater than five percent of the contributions owed for the audited period—for the cost of the audit.
3. After the audit has been performed or the monthly reports submitted and the total amounts owed have been calculated, counsel for Plaintiffs will file an affidavit detailing the amounts owed and a request for the Court to enter Judgment for damages in favor of Plaintiffs in the amount specified.
4. The Clerk shall not administratively close this case until Plaintiffs file their affidavit and Judgment is entered as to the amounts Defendant owes to Plaintiffs.
5. Plaintiffs are entitled to ongoing interest in the amount of one percent per month until the unpaid contributions are paid in full.

IT IS SO ORDERED.

Dated: 12/3/19



Judge Susan J. Dlott
United States District Court